

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

Patrick L. Booker,	)	C/A No. 3:18-cv-00984-DCC
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	ORDER
Daniel E. Shearouse and Brenda F. Shealy,	)	
	)	
Defendants.	)	
_____	)	

This matter is before the Court on Plaintiff's Complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. On April 20, 2018, Plaintiff filed a Motion for Judgment by Default. ECF No. 13. Defendants filed a Response in Opposition. ECF No. 14. On August 10, 2018, Defendants filed a Motion for Summary Judgment. ECF No. 22. Plaintiff filed a Response in Opposition, Defendants filed a Reply, and Plaintiff filed a Sur-Reply.<sup>1</sup> ECF Nos. 39, 43, 46. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), (D.S.C.), this matter was referred to United States Magistrate Judge Mary Gordon Baker for pre-trial proceedings and a Report and Recommendation ("Report"). On January 2, 2019, the Magistrate Judge issued a Report recommending that Plaintiff's Motion be denied and Defendants' Motion be granted. ECF No. 44. The Magistrate Judge advised Plaintiff of the procedures and requirements for

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<sup>1</sup> Plaintiff's Sur-Reply was filed more than three weeks after the Reply and after the Magistrate Judge issued the Report and Recommendation. Out of an abundance of caution for a pro se Plaintiff, the Court has considered the Sur-Reply in its decision.

filing objections to the Report and the serious consequences if he failed to do so. Plaintiff has filed no objections, and the time to do so has passed.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

After considering the record in this case, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error and agrees with the Report’s recommendation. Accordingly, the Court adopts the Report by reference in this Order. The Motion for Judgment by Default [13] is **DENIED** and the Motion for Summary Judgment [22] is **GRANTED**.

IT IS SO ORDERED.

February 13, 2019  
Spartanburg, South Carolina

s/ Donald C. Coggins, Jr.  
United States District Judge

### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.